

From: Steve Christensen
To: John Gefferth; Mary Ann Wright; Pam Grubaugh-Littig
Date: 10/29/2007 10:53 AM
Subject: Re: Emery Town Well
Attachments: CHVpg42.fullextracPHC.ZN.condapprv_1.doc

*Outgoing
 10/15/2005*

CC: Richard B. White
 John,

In response to your e-mail below and per our phone discussions last week, I would point out that regulation R645-301-525.480 calls for "A description of the measures to be taken in accordance with R645-301-731.530 and R645-301-525.500 to replace adversely affected State-appropriated water supplies..."

The language you e-mailed me (See Attached) regarding water replacement is inadequate. Consol will need to provide a demonstration that a plan is in place that is capable of "promptly" replacing the water supply to the town of Emery in the worse case scenario (i.e. Muddy Creek runs dry and the Emery Town wells are impacted by mining).

As I conveyed to you, Darrell Leamaster from the Town of Emery has indicated that the town uses approximately 20 million gallons of water annually. The water replacement plan to be submitted must take this usage into account as well as the water quality of the replacement water.

If you have any questions, please call me.

Steve Christensen

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>>> "Gefferth, John" <JohnGefferth@consolenergy.com> 10/25/2007 1:55 PM >>>

Steve

Please review the attached language.

After discussing this issue with operations and management it was decided to commit to replacement/repair per the regulations. The regulations only require that the "permittee will promptly replace any State-appropriated water supply that is contaminated, diminished or interrupted"....There is not a regulatory requirement to spell out the remedies in detail.

I feel that the attached language outlines what Consol will do in the event that it is proven that the Emery wells are adversely affected by mining. Outlining in detail could prove to be premature due to the fact that the water rights applications held by Consol and under review by the Division of Water are subject to cancellation in the event adequate proof of use is not submitted and approved. We are experiencing this in the water rights that have had recent due diligence deadlines. The DWQ has greatly reduced the amount of water tied to them and has stated that they will probably deny them the next time they are reviewed.

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3. The effects of mitigation work on non-renewable resources -The best example of this situation is the case where it is necessary to regrade an area to mitigate the effects of subsidence. If it is necessary to remove the topsoil prior to regrading, it would be better to wait until all probable subsidence had occurred than to risk topsoil contamination through repeated removal and resspreading of the topsoil should subsidence continue for several years. However in this case, it may be necessary to perform lesser or temporary mitigative work to minimize the effects of pending water on the soil resources or hazardous conditions for people, wildlife or livestock.

As discussed above, we do not believe it is possible to commit to a specific timetable for performing subsidence mitigation. However, when subsidence mitigation is required by applicable laws and regulations, mitigation will be performed as soon as practical taking into consideration the above items.

UMC 817.126

As described in the subsidence control plan, under UMC 784.20, the two (2) perennial streams in the permit area will be protected by buffer zones (Refer to Plate V-5). There are no impoundments of 20 acre-feet or more in the permit area.

Underground water rights described in Chapter VI, under UMC 784.14, show that the Town of Emery maintains two (2) wells developed in different aquifers within the Ferron Sandstone formation. These wells are used as a backup water source to the town's present water supply system which relies on surface water from Muddy Creek. Emery Town Well No. 1 is developed in the Lower Ferron aquifer, which lies well below current mining activities. Well No. 2 is developed in the Middle and Upper Ferron aquifers which are directly below and above the seam being mined. No adverse impacts to either well are anticipated since the wells are located about 3 to 4 miles from the mine and are up gradient within the regional ground water flow pattern. If mining activities adversely impact the Emery Town Wells, Consol will commit to insuring an alternative source of water, per R645-301-731-530, for the town if the surface water supply becomes inadequate. The remedies may include but not be limited to 1) re-conditioning or re-drilling the Emery Town wells to a greater depth. 2) Transferring water covered by an existing water right or water right application from table VI-I to the town of Emery. 3) other mutually agreed upon methods of mitigation/replacement. ~~Static water level readings taken from wells maintained as part of the mine's ground water monitoring program also indicate that no disruption of the aquifers in the vicinity of the town's wells has occurred.~~

Underground operations at the Emery Mine are not conducted beneath or in close proximity to any public buildings, including churches, schools, hospitals, court houses, and government offices.

Revised 10/07